

## EXHIBIT A

U.S. Office of Personnel Management Webpage  
(Printout dated 1/6/2015)

## U.S. OFFICE OF PERSONNEL MANAGEMENT

## DIVERSITY &amp; INCLUSION REFERENCE MATERIALS

# Guidance Regarding the Employment of Transgender Individuals in the Federal Workplace

## Policy and Purposes

It is the policy of the Federal Government to treat all of its employees with dignity and respect and to provide a workplace that is free from discrimination whether that discrimination is based on race, color, religion, sex (including gender identity or pregnancy), national origin, disability, political affiliation, marital status, membership in an employee organization, age, sexual orientation, or other non-merit factors. Agencies should review their anti-discrimination policies to ensure that they afford a non-discriminatory working environment to employees irrespective of their gender identity or perceived gender non-conformity.

The purpose of this memorandum is not to address legal rights and remedies, but instead to provide guidance to address some of the common questions that agencies have raised with OPM regarding the employment of transgender individuals in the federal workplace. Because the guidance is of necessity general in nature, managers, supervisors, and transitioning employees should feel free to consult with their human resources offices and with the Office of Personnel Management to seek advice in individual circumstances.

## Core Concepts

*Gender identity* is the individual's internal sense of being male or female. Gender identity is generally determined in the early years of an individual's life and, if different from the individual's physical gender, may result in increasing psychological and emotional discomfort and pain. The way an individual expresses his or her gender identity is frequently called "gender expression," and may or may not conform to social stereotypes associated with a particular gender.

*Transgender:* Transgender individuals are people with a gender identity that is different from the sex assigned to them at birth. Someone who was assigned the male sex at birth but who identifies as female is a *transgender woman*. Likewise, a person assigned the female sex at birth but who identifies as male is a *transgender man*. Some individuals who would fit this definition of transgender do not identify themselves as such, and identify simply as men and women, consistent with their gender identity. The guidance discussed in this memorandum applies whether or not a particular individual self-identifies as transgender.

*Transition:* Some individuals will find it necessary to transition from living and working as one gender to another. These individuals often seek some form of medical treatment such as counseling, hormone therapy, electrolysis, and reassignment surgery. Some individuals, however, will not pursue some (or any) forms of medical treatment because of their age, medical condition, lack of funds, or other personal circumstances. Managers and supervisors should be aware that not all



transgender individuals will follow the same pattern, but they all are entitled to the same consideration as they undertake the transition steps deemed appropriate for them, and should all be treated with dignity and respect.

### **Transition While Employed**

The World Professional Association of Transgender Health (WPATH), an international organization devoted to the study and treatment of gender-identity-related issues, has published the WPATH Standards of Care, which explains gender transition as a process that may include therapy, hormones, and possibly surgical procedures, or any combination of them. In particular, as explained by the WPATH Standards of Care, a transgender individual's gender transition will usually proceed in the following order. First, the individual will meet with a mental health provider to ascertain what transition steps are most appropriate to address the lack of congruity between his or her gender identity and the sex assigned to him or her at birth. Second, after appropriate evaluation and counseling, the individual may begin a course of hormone therapy, usually under the supervision of both her mental health provider and an endocrinologist. Third, after a period of time on hormone therapy, an individual will be ready to commence the "real life experience," which is when an individual transitions to living full-time in the gender role that is consistent with his or her gender identity. It is at this point that an employer is most often made aware that an employee is transgender and undertaking a gender transition.

Gender identity health care providers recognize commencement of the real life experience as often the most important stage of transition, and, for a significant number of people, the last step necessary for them to complete a healthy gender transition. As the name suggests, the real life experience is designed to allow the transgender individual to experience living full-time in the gender role to which he or she is transitioning. Completion of at least one year of the real life experience is required prior to an individual's being deemed eligible for gender reassignment surgery.

There are several issues that commonly generate questions from managers and employees who are working with a transitioning employee. In order to assist you in ensuring that transitioning employees are treated with dignity and respect, we offer the following guidance on those issues.

**Confidentiality and Privacy:** An employee's transition should be treated with as much sensitivity and confidentiality as any other employee's significant life experiences, such as hospitalization or marital difficulties. Employees in transition often want as little publicity about their transition as possible. They may be concerned about safety and employment issues if other people or employers become aware that he or she has transitioned. Moreover, medical information received about individual employees is protected under the Privacy Act (5 U.S.C. 552a).

Employing agencies, managers, and supervisors should be sensitive to these special concerns and advise employees not to spread information concerning the employee who is in transition: gossip and rumor-spreading in the workplace about gender identity are inappropriate. Other employees may be given only general information about the employee's transition; personal information about the employee should be considered confidential and should not be released without the employee's prior agreement. Questions regarding the employee should be referred to the employee himself or herself. If it would be helpful and appropriate, employing agencies may have a trainer or presenter meet with employees to answer general questions regarding gender identity. Issues that may arise should be



discussed as soon as possible confidentially between the employee and his or her managers and supervisors.

**Dress and Appearance:** Employees who begin the “real life experience” stage of their transition are required under the WPATH Standards of Care to live and work full-time in the target gender in all aspects of their life, which includes dressing at all times in the clothes of the target gender. Once an employee has informed management that he or she is transitioning, the employee will begin wearing the clothes associated with the gender to which the person is transitioning. Agency dress codes should be applied to employees transitioning to a different gender in the same way that they are applied to other employees of that gender. Dress codes should not be used to prevent a transgender employee from living full-time in the role consistent with his or her gender identity.

**Names and Pronouns:** Managers, supervisors, and coworkers should use the name and pronouns appropriate to the employee's new gender. Further, managers, supervisors, and coworkers should take care to use the correct name and pronouns in employee records and in communications with others regarding the employee. Continued intentional misuse of the employee's new name and pronouns, and reference to the employee's former gender by managers, supervisors, or coworkers may undermine the employee's therapeutic treatment, and is contrary to the goal of treating transitioning employees with dignity and respect. Such misuse may also breach the employee's privacy, and may create a risk of harm to the employee.

**Sanitary and Related Facilities:** The [Department of Labor's Occupational Safety and Health Administration \(DOL/OSHA\) guidelines](#) require agencies to make access to adequate sanitary facilities as free as possible for all employees in order to avoid serious health consequences. For a transitioning employee, this means that, once he or she has begun living and working full-time in the gender that reflects his or her gender identity, agencies should allow access to restrooms and (if provided to other employees) locker room facilities consistent with his or her gender identity. While a reasonable temporary compromise may be appropriate in some circumstances, transitioning employees should not be required to have undergone or to provide proof of any particular medical procedure (including gender reassignment surgery) in order to have access to facilities designated for use by a particular gender. Under no circumstances may an agency require an employee to use facilities that are unsanitary, potentially unsafe for the employee, or located at an unreasonable distance from the employee's work station. Because every workplace is configured differently, agencies with questions regarding employee access to any facilities within an agency should contact OPM for further guidance.

**Recordkeeping:** Consistent with the Privacy Act, the records in the employee's Official Personnel Folder (OPF) and other employee records (pay accounts, training records, benefits documents, and so on) should be changed to show the employee's new name and gender, once the employee has begun working full-time in the gender role consistent with the employee's gender identity. See 5 U.S.C. 552a(d). Instructions for how to reconstruct an employee's OPF to account for a gender change are set forth in [Chapter 4, How to Reconstruct a Personnel Folder \(PDF file\)](#).

**Insurance Benefits:** Employees in transition who already have Federal insurance benefits must be allowed to continue their participation, and new employees must be allowed to elect participation, in their new names and genders. If the employees in transition are validly married at the time of the

transition, the transition does not affect the validity of that marriage, and spousal coverage should be extended or continued even though the employee in transition has a new name and gender. Further information about insurance coverage issues can be found on the web at [OPM's Insure website](#), or by [contacting the relevant OPM insurance program office](#).

**Specific Questions:** For further guidance on these issues, contact the Diversity Program Manager, Office of Diversity and Inclusion, Office of Personnel Management, 1900 E Street, NW, Washington, DC 20415, at (202) 606-0020.